

Executive Order
Office of the Mayor
City of Atlanta

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SEP 16 2004

EXECUTIVE ORDER NUMBER 2004-3

MUNICIPAL CLERK

F. [signature]

BY THE MAYOR

DIRECTING THAT THE BUREAU OF BUILDINGS ACCEPT NO APPLICATIONS FOR PERMITS FOR CONCRETE BATCH PLANTS IN ORDER TO GIVE CITY COUNCIL TIME TO TAKE FINAL ACTION ON AN ORDINANCE PROPOSING INTERIM CONTROLS ON THE ISSUANCE OF SUCH PERMITS AT ITS NEXT MEETING ON SEPTEMBER 21, 2004

WHEREAS Atlanta City Zoning Code Section 16-17.005(e) only allows cement plants to operate in the I-2 Zoning District by way of the issuance of a Special Use Permit; and

WHEREAS, the City of Atlanta Bureau of Buildings has taken the position that concrete batch plants, which are not mentioned in the Zoning Code, are, like cement plants, only allowed in the I-2 Zoning District with a Special Use Permit; and

WHEREAS, an Order entered on August 24, 2004 in the case of RMC Allied Readymix, Inc. v. City of Atlanta Board of Zoning Adjustment, Fulton County Superior Court Civil Action File No. 2003CV73751, held that a concrete batch plant was allowed as a matter of right as a permitted use in both I-1 and I-2 , and

WHEREAS, Ordinance No. 04-O-1435 has been introduced which provides that concrete batch plants can only operate in the I-2, heavy industrial zoned areas, with the issuance of a Special Use Permit and it is presently going through the legislative and public hearing process; and

WHEREAS, an ordinance has been introduced for first read at the City Council Meeting on September 7, 2004 to impose interim controls on the acceptance of permits for concrete batch plants until such time as an ordinance, which provides that concrete batch plants can only operate in the I-2, heavy industrial zoned areas, with the issuance of a Special Use Permit, has had time to go through the legislative and public hearing process; and

WHEREAS, the ordinance imposing interim controls on concrete batch plants cannot become effective until the next meeting of City Council on September 21, 2004; and

WHEREAS, during the period between the first read on the ordinance imposing interim controls on concrete batch plants and its possible adoption by City Council on

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Filed by _____ Date _____

September 21, 2004, there exists the strong possibility that several applications for building permits for concrete batch plants in both I-1 and I-2 could be filed with the Bureau of Buildings; and

WHEREAS, such applications would have to be processes as permitted uses in I-1 and I-2 unless an executive order is executed; and

WHEREAS, pursuant to Section 2-182 of the Code of the City of Atlanta, the Mayor may issue executive orders which apply to events of short duration and which expire at the next meeting of City Council subsequent thereof unless ratified by a majority vote of the members present and voting; and

WHEREAS, there is an urgent need, substantially related to the public health, safety and welfare, that an executive order be issued to support an ordinance proposing an interim controls on the acceptance of building permits for concrete batch plants so that the purpose of the interim controls not be circumvented until such time as an appropriate ordinance can be acted on by the City Council; and

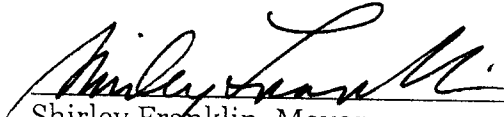
WHEREAS, this executive order will be for a brief and specific period of time which shall be from September 7, 2004 until no later than September 21, 2004.

I, SHIRLEY FRANKLIN, AS MAYOR OF THE CITY OF ATLANTA, NOW HEREBY AUTHORIZE, ORDER AND DIRECT AS FOLLOWS:

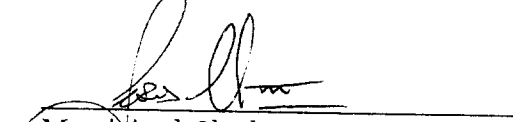
As of September 7, 2004, the Director of the Bureau of Buildings is hereby authorized, ordered and directed to refuse to accept for review or consideration any applications requesting a building permit for a concrete batch plant.

This order shall remain in effect until such time as an ordinance imposing interim controls on the acceptance of applications for concrete batch plants be enacted by the Atlanta City Council, provided however, that such action must take place at the meeting scheduled for September 21, 2004.

This 15 day of September, 2004.


Shirley Franklin, Mayor

ATTESTED:


Municipal Clerk
FORIS WEBB III
DEPUTY MUNICIPAL CLERK